



DEPARTMENT OF THE NAVY  
THE ASSISTANT SECRETARY OF THE NAVY  
(INSTALLATIONS AND ENVIRONMENT)  
1000 NAVY PENTAGON  
WASHINGTON, D.C. 20350-1000

MAR 2 2008

The Honorable Edward R. Royce  
House of Representatives  
Washington, DC 20515

Dear Representative Royce:

Thank you for your letter of February 11, 2008, seeking clarification on how decisions were made concerning the Hines and Makar Properties' La Jolla Commons project as it relates to Marine Corps Air Station (MCAS) Miramar. I am responding on behalf of Secretary Winter.


During February 2001, MCAS Miramar notified the developers that the proposed structures were not in compliance with 14 Code of Federal Regulations (C.F.R.) §§ 77.23 (a) (2) and (3) regarding objects affecting navigable airspace. Developers met with the MCAS Miramar Community Plans Officer (CP&LO) in March 2001. That officer subsequently signed a document prepared by the developer to acknowledge resolution of the first criteria (14 C.F.R. § 77.23(a)(2)) agreeing that development up to 703 feet above mean sea level was acceptable. The document failed to address the other incompatibility (14 C.F.R. § 77.23(a)(3)). The officer, since retired, had no authority to sign the document and we have been unable to ascertain why he signed it. The responsibility to make airspace compatibility determinations lies with the Federal Aviation Administration (FAA), under 49 USCS § 44718. To our knowledge, the developer failed to consult the FAA until late 2006. Moreover, MCAS Miramar, throughout the land use process, identified to the developers and City staff that an FAA aeronautical study was necessary.

In 2007, after the developers offered \$1.75 million to install a precision approach radar support system as a gift, the Marine Corps further evaluated the project's effect on Marine Corps air operations. The rationale for the Marine Corps recommendation to forego the gift offer was based on several factors including hazards to safety (e.g., altitude impacts, issues with emergency arrivals from the west and departures to the west) and encroachment concerns.

It is unfortunate that the MCAS Miramar CP&LO signed the resolution document in 2001. The document was neither reviewed nor approved by the operational chain of command. It is also unfortunate, again to our knowledge, that the developer failed to consult with the FAA until 2006.

As always, if I can be of further assistance, please let me know.

Sincerely,

A handwritten signature in blue ink, appearing to be 'BJ Penn', with a horizontal line extending to the right.

BJ Penn